

REMARKS

The Office Action of April 7, 2006, has been carefully considered.

Claim 7 has been rejected under 35 USC 102(e) as anticipated by Nitta et al. While no other rejection of claims appears in the Office action, it is noted that the summary indicates that Claims 3, 8 and 10 have also been rejected, so the Office action will be treated as if all claims have been rejected under 35 USC 102(e) over Nitta et al.

Claim 7 has now been amended to recite that the LED comprises an exposed peripheral portion of the transparent sealing resin including a permeated dye for correcting the color of light transmitted through the transparent resin including phosphor particles and sealing the LED.

In response to the rejection, Applicant submits herewith a declaration of inventor Masaki Sano under 37 CFR 1.131 for the purpose of "swearing behind" this reference. The declaration includes an appended document entitled "SPECIFICATION (DRAFT)" which is an invention disclosure document written by the inventor, and which has been submitted with a verified translation. This disclosure document includes a section having a heading "Preferred embodiment" which represents an example of the invention actually carried out by the inventor in which a blue light emitting element was mounted and YAG phosphor was mixed in an epoxy resin and molded with the element to form a white LED. Measurements were made of the white light emitted by the molded units prepared. The description of this experimental embodiment, recognized as an invention, is set forth in the paragraph bridging pages 1 and 2 of the disclosure document.

While the date has been removed from the disclosure

document, the inventor has sworn that the date of this report is prior to April 8, 2002, the filing date of the Nitta et al reference.

Nitta et al has been cited in the Office Action to show an LED mounted on a substrate and sealed with a resin containing phosphor particles. Applicant has therefore shown that he reduced to practice as much of the claimed invention as is alleged to be disclosed in the Nitta et al reference, and did so prior to the filing date, the constructive reduction to practice date, of the Nitta et al reference. Applicant has therefore properly shown a completion of the claimed invention prior to the earliest completion date of Nitta et al in evidence.

Withdrawal of the rejection is accordingly requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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